

REMARKS

Reconsideration and withdrawal of the rejections of this application and consideration and entry of this paper are respectfully requested in view of the herein remarks, which place the application in condition for allowance.

I. STATUS OF CLAIMS AND FORMAL MATTERS

With the cancellation of claims 72, 73, 76, 88, 89, 92, 97 and 98, claims 71, 74, 75, 77-84, 87, 90, 91, 93-96 and 99-106 are now pending. It is believed that no new matter has been added.

It is submitted that the claims, herewith and as originally presented, are patentably distinct over the prior art cited in the Office Action, and that these claims were in full compliance with the requirements of 35 U.S.C. §112. The amendments of the claims, as presented herein, are not made for purposes of patentability within the meaning of 35 U.S.C. §§§§ 101, 102, 103 or 112. Rather, these amendments and additions are made simply for clarification and to round out the scope of protection to which Applicants are entitled.

II. THE 35 U.S.C. 103 REJECTION HAS BEEN OVERCOME

Claims 71-101 and 106 were rejected as allegedly being obvious over Hacker et al. (WO 96/41537 - "Hacker") in view of Gesing et al. (U.S. Patent 6,451,737 - "Gesing") and Mayer et al. (U.S. Patent 6,413,911 - "Mayer").

The applicants believe the claims are unobvious over the reference cited because there is no evidentiary support for the Examiner's opinion that the declarative evidence is not commensurate with the scope of the claimed invention (and therefore the holding of *prima facie* obviousness remains rebutted). However, in order to advance prosecution, the scope of the claims have been amended to build around the elected species (trimethylsulfonium salt of iodosulfuron-methyl) held to be allowable by the Examiner. While the applicants believe that the formulation claims are allowable, the applicants point out that claim 101 has been amended to read upon an emulsifiable concentrate formulation.

The applicants' reserve the right to further prosecute the original scope of the claims in a continuing application.

CONCLUSION

In view of the remarks and amendments herewith, the application is believed to be in condition for allowance. Favorable reconsideration of the application and prompt issuance of a Notice of Allowance are earnestly solicited. The undersigned looks forward to hearing favorably from the Examiner at an early date, and, the Examiner is invited to telephonically contact the undersigned to advance prosecution. The Commission is authorized to charge any fee occasioned by this paper, or credit any overpayment of such fees, to Deposit Account No. 50-0320.

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